

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MALIK WEATHERLY,)
)
)
Plaintiff,)
) Case No. 18-cv-00643
v.)
)
) (Removed from the Circuit Court of Clay
FORD MOTOR COMPANY,) County, Missouri; No. 18CY-CV07027)
)
)
Defendant.)

DEFENDANT FORD MOTOR COMPANY'S NOTICE OF REMOVAL

TO THE CLERK OF THIS COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant Ford Motor Company (“Ford” or “Defendant”), by and through its undersigned counsel of record and pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, hereby removes to this Court the state court action originally commenced in the Circuit Court of Clay County, Missouri styled *Malik Weatherly v. Ford Motor Company*, Case No. 18CY-CV07027.

PLEASE TAKE FURTHER NOTICE that a copy of this Notice of Removal is being served upon all other parties and is attached to the Notice of Removal of Action to Federal Court being filed with the Clerk of the Circuit Court of Clay County, Missouri.

In support of removal, Defendant avers as follows:

1. Plaintiff Malik Weatherly (“Plaintiff”) filed an action styled *Malik Weatherly v. Ford Motor Company*, Case No. 18CY-CV07027, in the Circuit Court of Clay County, Missouri, on July 13, 2018. As required under § 1446(a), copies of all process, pleadings and orders served on Defendants are attached as Exhibit 1.

2. Plaintiff purports to assert claims against Defendant under the Americans with Disabilities Act as Amended, 42 U.S.C. §§ 12101, *et seq.* (“ADAAA”) and the Family and Medical Leave Act, 29 U.S.C. §§ 2601 *et seq.* (“FMLA”) arising from the suspension and termination of his employment in 2017. Pet. ¶¶ 1, 40-51, 52-63 (Count I), 64-74 (Count II), 75-96 (Count III), 97-110 (Count IV), 111-126 (Count V), included with Exhibit 1.

3. As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because Defendants have satisfied the procedural requirements for removal, and this Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331, federal question.

4. The undersigned counsel is authorized by Defendant to file this Notice of Removal and is a member of the Bar of this Court.

5. Pursuant to the rules of this Court, Defendant submit herewith a filing fee of \$400.00.

PROCEDURAL STATEMENT

6. Ford was served with Plaintiff’s Summons and Petition for Damages (“Petition”) on July 20, 2018. Therefore, this Notice of Removal has been timely filed within 30 days of service pursuant to 28 U.S.C. § 1446(b). *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999) (notice of removal is timely under 28 U.S.C. § 1446(b) if filed within 30 days after service of the complaint).

7. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the Summons and Petition are attached hereto as Exhibit 1. Defendant has not yet answered the Petition.

8. Pursuant to 28 U.S.C. § 1441(a), venue in the United States District Court for the Western District of Missouri, Western Division, is proper because the district and division embrace the Circuit Court of Clay County, where this action is currently pending.

9. Pursuant to 28 U.S.C. § 1446(d), Defendant will promptly file a copy of this Notice of Removal in the Circuit Court of Clay County and give written notice of the removal to the Plaintiff.

FEDERAL QUESTION JURISDICTION

10. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiff asserts claims under two federal statutes; specifically, the ADAAA and the FMLA. Pet. ¶¶ 1, 52-63 (Count I), 64-74 (Count II), 75-96 (Count III), 97-110 (Count IV), 111-126 (Count V), included with Exhibit 1.

CONCLUSION

11. Because this is a civil action arising under the laws of the United States (federal question), this Court has original jurisdiction over this action. *See* 28 U.S.C. § 1331. As a result, this action is removable pursuant to 28 U.S.C. § 1441(a).¹

WHEREFORE, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant respectfully removes to federal court the above-captioned civil action, which is currently pending in the Circuit Court of Clay County, Missouri.

¹ Even without federal question jurisdiction, removal would still be proper because this Court has original jurisdiction because there is complete diversity among the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a). Ford is incorporated under the laws of the State of Delaware, with its principal place of business in the State of Michigan. Plaintiff is a resident of Missouri. Pet. ¶ 2.

Respectfully submitted,

BERKOWITZ OLIVER LLP

By: /s/Timothy S. Millman

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2018, I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system. I hereby certify that I have also mailed by United States Postal Service the foregoing document to the following:

Joshua P. Wunderlich
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Attorneys for Plaintiff

/s/Timothy S. Millman

Attorney for Defendants